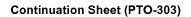
## Advisory Action Before the Filing of an Appeal Brief

| Application No. | Applicant(s)    |  |  |
|-----------------|-----------------|--|--|
| 10/673,000      | ROBINSON ET AL. |  |  |
|                 |                 |  |  |
| Examiner        | Art Unit        |  |  |

|   | Amber D. Steele  | 1039   |  |
|---|--|--|--|
| The MAILING DATE of this communication appe   | ars on the cover sheet with the  | correspondence add   | ress                                     |
| THE REPLY FILED <u>05 August 2008</u> FAILS TO PLACE THIS AF  | PPLICATION IN CONDITION FOR  | ALLOWANCE.   |  |
| 1.  The reply was filed after a final rejection, but prior to or on application, applicant must timely file one of the following application in condition for allowance; (2) a Notice of Appelor Continued Examination (RCE) in compliance with 37 C periods:   | replies: (1) an amendment, affidav<br>eal (with appeal fee) in compliance      | t, or other evidence, w<br>with 37 CFR 41.31; or           | hich places the (3) a Request            |
| a) The period for reply expiresmonths from the mailing  | date of the final rejection.   |  |  |
| b) The period for reply expires on: (1) the mailing date of this A no event, however, will the statutory period for reply expire Is Examiner Note: If box 1 is checked, check either box (a) or (MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f)  | ater than SIX MONTHS from the mailin<br>b). ONLY CHECK BOX (b) WHEN THE<br>f). | g date of the final rejection<br>FIRST REPLY WAS FI        | on.<br>LED WITHIN TWO                    |
| Extensions of time may be obtained under 37 CFR 1.136(a). The date of have been filed is the date for purposes of determining the period of extunder 37 CFR 1.17(a) is calculated from: (1) the expiration date of the set forth in (b) above, if checked. Any reply received by the Office later may reduce any earned patent term adjustment. See 37 CFR 1.704(b). NOTICE OF APPEAL | ension and the corresponding amount hortened statutory period for reply orig   | of the fee. The appropria<br>inally set in the final Offic | ate extension fee<br>e action; or (2) as |
| 2. The Notice of Appeal was filed on A brief in comp  | liance with 37 CFR 41.37 must be   | filed within two months                                    | s of the date of                         |
| filing the Notice of Appeal (37 CFR 41.37(a)), or any exter<br>Notice of Appeal has been filed, any reply must be filed wi<br>AMENDMENTS  |  |  | e appeal. Since a                        |
| 3. The proposed amendment(s) filed after a final rejection, b   | out prior to the date of filing a brief,                                       | will not be entered be                                     | cause                                    |
| (a) They raise new issues that would require further cor  | •  | TE below);   |  |
| <ul> <li>(b) ☐ They raise the issue of new matter (see NOTE below</li> <li>(c) ☐ They are not deemed to place the application in beth appeal; and/or</li> </ul>   | •  | ducing or simplifying t                                    | ne issues for                            |
| (d) ☐ They present additional claims without canceling a converse NOTE: (See 37 CFR 1.116 and 41.33(a)).  | corresponding number of finally rej  | ected claims.  |  |
| 4. The amendments are not in compliance with 37 CFR 1.12  | 21. See attached Notice of Non-Co  | mpliant Amendment (  | PTOL-324).                               |
| 5. Applicant's reply has overcome the following rejection(s):   | 35 USC 102(a) over Foguel et al.   | and 35 USC 102(b) o  | <u>ver Silva et al</u> .                 |
| 6. Newly proposed or amended claim(s) would be all non-allowable claim(s).  |  |  | _  |
| 7.  For purposes of appeal, the proposed amendment(s): a) [how the new or amended claims would be rejected is proved the status of the claim(s) is (or will be) as follows:   |  | ll be entered and an e                                     | xplanation of                            |
| Claim(s) allowed: Claim(s) objected to:   |  |  |  |
| Claim(s) rejected: <u>1-12</u> . Claim(s) withdrawn from consideration: <u>13-18</u> .  |  |  |  |
| AFFIDAVIT OR OTHER EVIDENCE   |  |  |  |
| 8.  The affidavit or other evidence filed after a final action, but because applicant failed to provide a showing of good and was not earlier presented. See 37 CFR 1.116(e).   |  |  |  |
| 9. The affidavit or other evidence filed after the date of filing entered because the affidavit or other evidence failed to o showing a good and sufficient reasons why it is necessary   | vercome <u>all</u> rejections under appe                                       | al and/or appellant fail                                   | s to provide a                           |
| 10. ☑ The affidavit or other evidence is entered. An explanation REQUEST FOR RECONSIDERATION/OTHER  | n of the status of the claims after e  | ntry is below or attach                                    | ed.                                      |
| 11. The request for reconsideration has been considered but   | t does NOT place the application in  | n condition for allowan                                    | ce because:                              |
| 12. Note the attached Information <i>Disclosure Statement</i> (s). (13. Other:  | PTO/SB/08) Paper No(s)   |  |  |
| /JD Schultz, PhD/<br>Supervisory Patent Examiner, Art Unit 1635   |  |  |  |
|   |  |  |  |



Application No.